

CITY OF SAN JOSÉ, CALIFORNIA
Department of Planning, Building and Code Enforcement
801 North First Street, Room 400
San José, California 95110-1795

STAFF REPORT

Hearing Date/Agenda Number
P.C. 6/26/02 Item 4.c.

File Number
PD 01-06-070

Application Type
Planned Development Permit Appeal

Council District
10

Planning Area
South

Assessor's Parcel Number(s)
462-64-003

PROJECT DESCRIPTION

Completed by: John W. Baty

Location: Northeast corner of Capitol Expressway and Copperfield Drive

Gross Acreage: 0.77

Net Acreage: 0.77

Net Density: N/A

Existing Zoning: A(PD) Planned Development

Existing Use: Overflow Parking for Shopping Center

Proposed Zoning: No Change

Proposed Use: Six (6) pump fuel station with 296 square foot kiosk

GENERAL PLAN

Completed by: JWB

Land Use/Transportation Diagram Designation
General Commercial

Project Conformance:
☒ Yes ☐ No
☒ See Analysis and Recommendations

SURROUNDING LAND USES AND ZONING

Completed by: JWB

North: Commercial

A(PD) Planned Development

East: Commercial

A(PD) Planned Development

South: Single-family Detached Residential

A(PD) Planned Development

West: Multi-family Attached Residential

A(PD) Planned Development

ENVIRONMENTAL STATUS

Completed by: JWB

☒ Environmental Impact Report Resolution No. 64433
☐ Negative Declaration adopted on January 4, 2001

☐ Exempt
☐ Environmental Review Incomplete

FILE HISTORY

Completed by: JWB

Annexation Title: Edenvale No. 2

Date: 1/27/61

PLANNING DEPARTMENT RECOMMENDATIONS AND ACTION

☒ Uphold Director's Decision
☐ Approval with Conditions
☐ Denial

Date: _____

Approved by: _____
☐ Action
☒ Recommendation

OWNER/DEVELOPER

Albertson's Inc.
Attn: Kent Heasley
250 Parkcenter Boulevard
Boise, ID 83706

ARCHITECT

Tait & Associates, Inc.
Attn: Jon Marcotte
290 Bobwhite Court #220
Boise, ID 83706

PUBLIC AGENCY COMMENTS RECEIVED

Completed by: JWB

Department of Public Works

See attached.

Other Departments and Agencies

None received.

GENERAL CORRESPONDENCE

See attached Appeal letter from William J. Garbett, dated May 17, 2002.

ANALYSIS AND RECOMMENDATIONS

BACKGROUND

William J. Garbett, an area resident, has appealed the Planning Director's decision to approve a Planned Development Permit, as conditioned, for the construction of a six (6) pump fuel station and an associated 296 square foot sales kiosk on 0.77 gross acres.

The site is surrounded and part of a retail commercial center to the north and east. Single-family detached houses are located across Capitol Expressway to the south. An existing apartment complex is located across Copperfield Drive to the west.

The project site was the subject of a Planned Development Zoning (File No. PDC91-08-067) approved by the City Council on March 16, 1993. An Environmental Impact Report prepared in conjunction with the Planned Development Zoning was also approved by the City Council on March 16, 1993 by Resolution Number 64433. The existing Planned Development Zoning encompasses the surrounding retail center as well as the nearby residential uses located between Capitol Expressway and Hillsdale Avenue. A Planned Development Permit (File No. PD94-09-038) was approved for the shopping center on February 21, 1995. On June 11, 2001, the project applicant filed the subject Planned Development Permit Application. The Director of Planning held a public hearing on May 8, 2002, and approved the permit on May 17, 2002.

The approved Planned Development Zoning designates the area of the proposed project site, at the corner of Capitol Expressway and Copperfield Drive, for commercial use and anticipated future development. The proposed project site is presently paved and is being used as interim, overflow parking for the shopping center. The proposed fuel station site layout is designed to integrate with the existing circulation pattern established by the existing shopping center. The proposed kiosk building parallels Copperfield Drive and serves to screen the proposed canopy and fueling activities from the residential uses across Copperfield Drive (an approximately 120-foot Right of Way). The addition of several trees along the perimeter of the site will add further screening.

On May 17, 2002, William J. Garbett filed an appeal of the Director's decision to approve the subject Planned Development Permit (see attached letter). Mr. Garbett's individual comments are listed below in the Analysis section followed by staff's response.

GENERAL PLAN CONFORMANCE

The subject site is designated General Commercial. The proposed fuel station project conforms to this land use designation as an allowed commercial use.

ENVIRONMENTAL REVIEW

An Environmental Impact Report entitled, "Planned Development Zoning Application for the Waterford Project," was prepared in conjunction with the Planned Development Zoning and was approved by the City Council on March 16, 1993 by Resolution Number 64433. The environmental impacts of the proposed project were adequately considered by the EIR, and there are no new potentially significant impacts.

ANALYSIS

The appellant, William J. Garbett, expressed several concerns with the proposed project. Mr. Garbett's comments are quoted in excerpts from the appeal letter addressed to the Director of Planning on May 17, 2002. Staff response follows each comment.

1. *The hearing was a sham and fraud. Item 14 was represented to be in District 7, but it actually has been in Council District 10...*

Staff Response: The public hearing was noticed and held in accordance with the Ralph M. Brown Act (Gov. Code Sections 54950 et seq.) and with the City of San José Municipal Code Title 20, Chapter 20.100: Administration and Permits. At the time of project submittal, June 2001, the site was in District 7. Upon completion of Citywide redistricting the project site became part of District 10. This does not pertain to the merits of the project and the Director's decision.

2. *EIR Resolution 64433 has expired and is moot since no part was vested under the Land Map Act. Therefore this is a new project, and has no relationship to the previous history.*

Staff Response: The City Council approved an EIR in 1993 for the Planned Development Zoning that encompasses what are today a shopping center and a separate residential component. For the shopping center site the PD Zoning designated the intensity and location of future development. The proposed project site is designated on the Planned Development General Development Land Use Plan as a site for a future commercial use. The proposed project site does relate back to the PD Zoning approval and the EIR is still valid. EIRs do not expire and are not subject to the "Land Map Act", whatever that refers to.

3. *The Planned Development Permit will remove parking necessary for the previous projects that have been approved, and their operation should be reduced in size under the existing conditional use permits. The lack of necessary parking will introduce blight into the adjacent community.*

Staff Response: The existing parking on the project site is currently overflow parking for the shopping center. The project site has been designated from the Planned Development Zoning stage as a location for a commercial use. All approvals under the approved PD Zoning have required a Planned Development Permit, not a Conditional Use Permit as Mr. Garbett indicated. All previous Planned Development Permits that have been issued have been approved in accordance with the PD Zoning, including compliance with the parking

requirements. The proposed use will remove overflow-parking spaces, which does not affect required parking. The existing commercial uses will retain adequate parking as required. Additionally, parking in the “overflow” area is seldom used. No parking is allowed on Copperfield Drive across from the existing multi-family attached residences.

4. *The Fuel Station will introduce Proposition 65 cancer into the community because fuel contains MTBE and other harmful ingredients.*

Staff Response: MTBE is presently being phased out as an oxygenate additive in gasoline. “Proposition 65 requires the Governor to publish a list of chemicals that are known to the State of California to cause cancer, birth defects or other reproductive harm. Businesses that produce, use, release or otherwise engage in activities involving those chemicals must give clear and reasonable warning of the chemicals involved and are prohibited from discharging or releasing a listed chemical into water or onto land where it passes or probably will pass into a source of drinking water.”¹ Gas stations are subject to California Environmental Protection Agency, State Water Resources Control Board Water Quality Code Regulations Title 23, Division 3, Chapter 16 which regulates the design, construction and monitoring requirements for new underground storage tanks. The project must also be in conformance with the regulations of the City of San José Hazardous Materials Storage Ordinance.

5. *There is already a sufficient number of gas stations serving the community located in close proximity, and no need therefore exists.*

Staff Response: There are existing gas stations in the area. The closest gas stations along Capitol Expressway are located at the northwest corner of Snell Avenue and Capitol Expressway and on the north side of Capitol Expressway west of Highway 87, both approximately seven-tenths of a mile to the east and west of the project site respectively. The need for gas stations is a market economy issue for the applicant. This is not a legitimate land use issue within the City’s purview. The proposed use is allowed by the Planned Development Zoning.

6. *The excavation for tanks and frequent tank replacements would introduce asbestos into the community because of the presence of serpentine rock beneath the site. In 1972 Dr. Stephen Coray closed down the Hillsdale Quarry (same site) because of the epidemic of cancers caused by airborne dust that contained asbestos.*

Staff Response: In 1986, Ecology and Environment, Inc., at the request of the U.S. EPA, was directed to undertake a sampling program of the Hillsdale quarry to characterize the levels, if any, of asbestos-containing materials in the quarry’s serpentine rocks. Samples collected from the quarry yielded either no detectable asbestos fibers or chrysotile, a fibrous form of serpentine that constitutes one form of asbestos. Additional field sampling and laboratory analysis for asbestos in 1990 and 1992 yielded the same results as the 1986 study. Air sampling for asbestos was also performed in 1991 during contaminated soil excavation work. The air sampling results indicated that significant concentrations of asbestos fibers were not being released by the grading activities at the site; the levels detected were considered to be background levels and do not present a threat to human health.²

The Planned Development Permit contains a condition requiring that asbestos air monitoring be conducted

¹ Excerpt from the Office of the Attorney General, State of California, Department of Justice Prop 65 web site: <http://caag.state.ca.us/prop65/faqs.htm>

² Environmental Impact Report: Planned Development Zoning Application for Waterford Project, November 1992.

during grading and construction activities. If asbestos is detected in significant concentrations special construction techniques specific to asbestos handling shall be implemented.

7. *The traffic from the entrances to State Route 87 back up beyond this intersection during commute hours. Since additional business will allegedly be attracted, it leaves conditions beyond level F. Mitigation would be needed*

Staff Response: The existing traffic back-up for motorists traveling toward northbound Highway 87 by way of the Narvaez Avenue on-ramp is directly attributable to the metering lights near the top of the on-ramp. The lights are activated during the morning commute hours. Adequate lane capacity exists on Narvaez Avenue to accommodate the number of vehicles moving toward northbound 87 without the problems referenced in this comment. However, the flow of traffic is ultimately restricted by the metering lights, which are set to a limit of 900 cars per hour, resulting in a “bottleneck” effect that causes the impact described above. In short, the intersection of Narvaez and the northbound 87 on-ramp would operate at Level of Service (LOS) of “B” were it not for the metering lights, which are operated by Caltrans and are not subject to regulation or alteration by the City.

The City’s Transportation Level of Service Policy (Council Policy 5-3) currently requires mitigation consisting of increased lane capacity, restriping, or other improvements if a project’s traffic impacts would:

- A) reduce a signalized intersection from LOS “D” or better to “E” or “F,” **or**
- B) at an intersection that is already operating at LOS “E” or “F,” increase the vehicle-to-capacity ratio by 1% or more, and increase critical delay by four seconds or more.

The Level of Service Policy was intended to address and reduce the delays that are experienced by motorists at congested intersections. However, it does not account for external, uncontrollable factors like the existing metering lights on the 87 on-ramp. In the present case, an intersection that should be operating at LOS “B” based on its volume-to-capacity ratio does in fact function more like LOS of “E” or “F” due to the metering lights, which are a built-in constraint that is beyond the City’s control.

Based on a traffic distribution study prepared by the City the proposed project conforms to the City’s LOS policy in its current form. Therefore, no additional traffic mitigation is required to address the issue raised in this comment.

The remainder of Mr. Garbett’s comments are not directly related to the proposed project.

CONCLUSION

Staff maintains that the Environmental Impact Report (EIR) prepared for the Planned Development Zoning is valid and that the EIR adequately addresses potential environmental impacts from the proposed project. The proposed project is sited on overflow parking for the existing shopping center. The location of the proposed project is defined for commercial use in the Planned Development Zoning. Staff does not dispute the fact that gasoline contains several harmful substances, some of which may cause cancer. However, staff is satisfied that the standards and regulations required and enforced by the City of San José, State of California and the Federal Government for installation and operation of gasoline stations will effectively reduce any potential health risks. In several tests that were conducted before and during the PD Zoning process to check for asbestos, no significant levels were detected. Regardless of there being no present or past detection of asbestos the permit is conditioned to include air monitoring during grading and construction activities. If asbestos is found appropriate measures would be implemented. The appellant does not raise any issues that invalidate the Director’s decision on this project. Planning Staff recommends that the Planning Commission uphold the Director's decision to approve the subject permit.

PUBLIC OUTREACH

A notice of the public hearing for the subject appeal was distributed to the owners and tenants of all properties located within 500 feet of the subject site. Staff has been available to discuss the project with interested members of the public.

RECOMMENDATION

Planning staff recommends that the Planning Commission uphold the Director's decision to approve the proposed Planned Development and include the following facts and findings in its Resolution.

The Planning Commission finds that the following are the relevant facts regarding this proposed project:

1. The site has a designation of General Commercial on the adopted San Jose 2020 General Plan Land Use/Transportation Diagram.
2. The project site is located in the A(PD) Planned Development Zoning District (File No. PDC91-08-067).
3. The site is surrounded by (1) commercial uses to the north; (2) commercial uses to the east; (3) single-family detached residences across Capitol Expressway to the south; and (4) multi-family attached residences across Copperfield Drive to the west.
4. The Planned Development Permit was approved by the Director of Planning on May 17, 2002 for the construction of a 6-pump fuel station and 296 square-foot kiosk.
5. William J. Garbett filed an Appeal of the subject Planned Development Permit on May 17, 2002.
6. The appellant, Mr. Garbett, indicated the following as his reasons for appealing the Planning Director's Decision to approve the subject Planned Development Permit: the EIR has expired and the project has no relationship to the previous EIR, the project would remove required parking, the project would cause cancer, and the project would increase traffic.
7. Environmental Impact Reports (EIRs) do not expire.
8. The certified EIR for the approved Planned Development Zoning designates the project site for future commercial use.
9. The proposed project site including the surrounding retail center provides 533 parking spaces.
10. The proposed fuel station must adhere to the City of San José Hazardous Materials Storage Ordinance, and the State of California and the Federal Government requirements for the installation and operation of gasoline stations.
11. The Department of Public Works prepared a traffic distribution for the proposed project which concluded that the project would be in conformance with the City of San José Transportation Level of Service Policy (Council Policy 5-3).

The Planning Commission concludes and finds, based upon an analysis of the above facts that:

1. The project is consistent with the General Plan Land Use /Transportation Diagram designation of General Commercial.
2. The proposed project is in compliance with the California Environmental Quality Act (CEQA).
3. The project does comply with the approved Planned Development Zoning with regards to allowable uses, parking and other applicable development standards.

A report of findings has been prepared in compliance with the requirements of Section 20.100.900 and is made a part of this Planned Development Permit as noted below.

FINDINGS

The Planning Commission concludes and finds, based upon an analysis of the above facts that:

1. The Planned Development Permit, as issued, furthers the policies of the General Plan in that:
 - a. The project is consistent with the General Plan Land Use designation General Commercial.
2. The Planned Development Permit, as issued, conforms in all respects to the Planned Development zoning of the property in that:
 - a. The proposed project conforms to the approved General Development Plan.
3. The interrelationship between the orientation, location and mass and scale of building volumes, and elevations of proposed buildings, structures and other uses on-site are appropriate, compatible and aesthetically harmonious in that:
 - a. The project conforms to the Commercial Design Guidelines and development standards of the approved General Development Plan.
4. The environmental impacts of the project including, but not limited to, noise, vibration, dust, drainage, erosion, and odor which, even if insignificant for purposes of the California Environmental Quality Act (CEQA), will not have an unacceptable negative effect on adjacent property or properties in that:
 - a. An Environmental Impact Report has been adopted for a previous and essentially the same project (File No. PDC 91-08-067) which indicated there is no substantial evidence that the project has a significant adverse effect on the environment.

APPROVED SUBJECT TO THE FOLLOWING CONDITIONS:

1. **Sewage Treatment Demand.** Chapter 15.12 of Title 15 of the San José Municipal Code requires that all land development approvals and applications for such approvals in the City of San José shall provide notice to the applicant for, or recipient of, such approval that no vested right to a Building Permit shall accrue as the result of the granting of such approval when and if the City Manager makes a determination that the cumulative sewage treatment demand of the San José-Santa Clara Water Pollution Control Plant represented by approved land uses in the area served by said Plant will cause the total sewage treatment

demand to meet or exceed the capacity of San José-Santa Clara Water Pollution Control Plant to treat such sewage adequately and within the discharge standards imposed on the City by the State of California Regional Water Quality Control Board for the San Francisco Bay Region. Substantive conditions designed to decrease sanitary sewage associated with any land use approval may be imposed by the approval authority.

2. **Building Permit.** Obtainment of a Building Permit is evidence of acceptance of all conditions specified in this document and the applicant's intent to fully comply with said conditions.
3. **Permit Expiration.** This Planned Development Permit shall automatically expire 30 months from and after the date of issuance hereof by said Director, if within such 30-month period, the proposed use of this site or the construction of buildings has not commenced, pursuant to and in accordance with the provisions of this Planned Development Permit. The date of issuance is the date this Permit is approved by the Director of Planning. However, the Director of Planning may approve a Permit Adjustment to extend the validity of this Permit for a period of up to two years. The Permit Adjustment must be approved prior to the expiration of this Permit.
4. **Conformance with Plans.** Construction and development shall conform to approved Planned Development plans entitled, "Express No. 7154 Fuel, N.E.C. Capitol Expressway & Copperfield Drive, San José," dated April 18, 2002, on file with the Department of Planning, Building and Code Enforcement and to the San José Building Code (San José Municipal Code, Title 17, Chapter 17.04) except as noted.
5. **Sign Design.** Sign design and location, as delineated on the approved plan set, are hereby approved. Additional signage shall be subject to subsequent approval by the Director of Planning and shall conform to the Sign Ordinance.
6. **Lighting.** On-site lighting shall use Low-Pressure Sodium fixtures and be designed, controlled, and maintained so that no light source is visible from outside of the property. Under canopy lights shall be recessed into the structure to reduce glare from off-site. New electroliers shall match the height and design of the existing shopping center electroliers.
7. **Revocation.** This Planned Development Permit is subject to revocation for violation of any of its provisions or conditions.
8. **Conformance with Municipal Code.** No part of this approval shall be construed to permit a violation of any part of the San José Municipal Code.
9. **Hazardous Materials.** Any hazardous materials regulated by Chapter 17.68 of the San José Municipal Code on the site must be used and stored in full compliance with the City's Hazardous Material Ordinance and the Hazardous Materials Management Plan for the site approved by the San José Fire Prevention Bureau.
10. **Asbestos Monitoring.** Asbestos air monitoring shall be conducted during grading and construction. If asbestos is detected in significant concentrations, special construction techniques specific to asbestos handling shall be implemented.
11. **Refuse.** All trash areas shall be effectively screened from view and covered and maintained in an orderly state to prevent water from entering into the garbage container. No outdoor storage is allowed/permitted unless designated on the approved plan set. Trash areas shall be maintained in a manner to discourage

illegal dumping.

12. **Construction Hours.** Construction shall be limited to the hours of 7:00 a.m. to 7:00 p.m. Monday through Friday except that minor interior work that does not result in any audible noise outside the buildings may be permitted on weekends between 8:00 a.m. and 8:00 p.m.
 - a.) Deliveries shall not occur outside the above construction hours. All deliveries shall be coordinated to ensure that no delivery vehicles arrive prior to the opening of the gates to prevent the disruption of nearby residents.
 - b.) The site shall be wholly enclosed by security fencing. The gates to the project site shall remain locked during all other times, except for a fifteen minute period immediately preceding and following the above hours of construction.
 - c.) Workers shall not arrive to the site until the opening of the project gates. The applicant shall designate a location without adjacent residential units for workers to wait prior to the opening of the project gates.
 - d.) The construction hours shall be printed on all plans for the project used to construct the project.
 - e.) These construction impact mitigation measures shall be included in all contract documents for the project to ensure full disclosure to contractors and subcontractors.
13. **Archaeology.** Pursuant to Section 7050.5 of the Health and Safety Code, and Section 5097.94 of the Public Resources Code of the State of California in the event of the discovery of human remains during construction, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains. The Santa Clara County Coroner shall be notified and shall make a determination as to whether the remains are Native American. If the Coroner determines that the remains are not subject to his authority, he shall notify the Native American Heritage Commission who shall attempt to identify descendants of the deceased Native American. If no satisfactory agreement can be reached as to the disposition of the remains pursuant to this State law, then the land owner shall re-inter the human remains and items associated with Native American burials on the property in a location not subject to further subsurface disturbance.
14. **Landscaping.** Planting and irrigation are to be provided, as indicated, on the final Approved Plan Set. Landscaped areas shall be maintained and watered and all dead plant material is to be removed and replaced by the property owner. Irrigation is to be installed in accordance with Part 4 of Chapter 15.10 of Title 15 of the San José Municipal Code, Water Efficient Landscape Standards for New and Rehabilitated Landscaping and the City of San José Landscape and Irrigation Guidelines.
15. **Irrigation Standards.** The applicant shall install an adequately sized irrigation distribution system with automatic controllers in all areas to be landscaped that conforms to the Zonal Irrigation Plan in the Approved Plan Set and is consistent with the City of San José Landscape and Irrigation Guidelines. The design of the system shall be approved and stamped by a California Registered Landscape Architect.
16. **Certification.** Pursuant to San José Municipal Code, Section 15.10.486, certificates of substantial completion for landscape and irrigation installation shall be completed by licensed or certified professionals and provided to the Department of Planning, Building and Code Enforcement prior to approval of the final inspection of the project.

17. **Tree Removals.** No tree larger than 56 inches in circumference, at a height of 24 inches above the natural grade slope, shall be removed without a Tree Removal Permit issued by the Director of Planning.
18. **Tree Protection Standards.** The applicant shall maintain the trees and other vegetation to be retained in this project. Maintenance shall include pruning and watering as necessary and protection from construction damage. All trees to be preserved shall be permanently identified by metal numbered tags prior to the removal of any tree on site. All trees to be saved shall be protected by fencing of chain link, hog wire, 4-strand barbed wire or other fencing approved by the Director of Planning prior to issuance of a Grading Permit or removal of any tree. The fence shall occur at the dripline in all cases and shall remain during construction. Tree masses to be saved may be protected with a fence surrounding the dripline of the entire mass. All sensitive plant and wildlife habitat areas to be preserved and protected shall be posted prior to issuance of a Grading Permit with signs stating that no disturbance, including grading, storage of equipment, vehicles or material, or other disruptions, is allowed. Fencing may be required for areas subject to direct impact, such as trees to be saved or habitat within areas being developed. Fencing and signage shall be maintained by the applicant to prevent disturbances during the length of the construction that might disrupt the habitat or trees.
19. **Discretionary Review.** The Director of Planning, Building and Code Enforcement maintains the right of discretionary review of requests to alter or amend structures, conditions, or restrictions of this Planned Development Permit incorporated by reference in this Permit in accordance with Section 20.44.200 of the San José Municipal Code.
20. **Public Works Clearance.** A Development Clearance shall be obtained from the Public Works Department, Room 308, (408) 277-5161, and is subject to the following requirements (3-04841) to the satisfaction of the Director of Public Works:
 - a. *Grading Permit.* A Grading Permit is required.
 - b. *Storm Water Management Plan.* The project shall conform with the City of San José National Pollutant Discharge Elimination System (NPDES) Storm Water Permit and shall include Best Management Practices (BMPs) as specified in the *Blueprint for a Clean Bay* to control the discharge of storm water pollutants including sediments associated with construction activities. To obtain a copy of the booklet or other information about the NPDES permit requirements, please call the Department of Public Works at (408) 277-5161.
 - c. *Street Improvements.* Remove and replace broken or uplifted curb, gutter, and sidewalk along project frontage. Repair, overlay, or reconstruction of asphalt pavement may be required. The existing pavement will be evaluated with the street improvement plans and any necessary pavement restoration will be included as part of the final street improvement plans.
 - d. *Street Trees.* Install street trees within the public right-of-way along the entire street frontages per City standards.
21. **Building Clearance for Issuing Permits.** Prior to the issuance of a Building Permit, the following requirements must be met to the satisfaction of the Chief Building Official:
 - a. *American Disabilities Act.* The applicant shall provide appropriate access as required by the American

Disabilities Act (ADA).

- b. *Construction Plans.* This Permit File Number, PD01-06-070, shall be printed on all construction plans submitted to the Building Division.
22. **Construction Conformance.** A project construction conformance review by the Planning Division is required. Planning Division review for project conformance will begin with the initial plan check submittal to the Building Division. Prior to final inspection approval by the Building Department, Developer shall obtain a written confirmation from the Planning Division that the project, as constructed, conforms with all applicable requirements of the subject Permit, including the plan sets.
23. **Fire Hydrants.** Public (off-site) and private (on-site) fire hydrants shall be provided as required. The exact location specified by Protection Engineering Section of the Fire Department to the satisfaction of the Fire Chief.
24. **Fire Hydrants and Driveways.** All fire hydrants shall be at least 10 feet from all driveways to the satisfaction of the Fire Chief.
25. **Fire Flow.** Required fire flow for the site is 2,000 g.p.m., or as approved in writing by the Fire Chief.
26. **Street Number Visibility.** Street numbers shall be visible day and night from the nearest street, either by means of illumination or by the use of reflective materials.
27. **Anti-Graffiti.** The applicant shall remove all graffiti from buildings and wall surfaces within 48 hours of defacement.
28. **Restrooms, Air, and Water.** The restrooms, air, and water shall be kept available for public use during all hours of operation of the gas station.
29. **Hours of Operation.** The gas station operation shall be limited to the hours between 6:00 A.M. and 12:00 A.M.
30. **Vending Area.** Retail sale of prepackaged soft drinks, cigarettes and snack food shall occur from automatic vending machines only.
31. **Acceptance.** The "Acceptance of Permit and Conditions" form shall be *signed, notarized, and returned* to the Department of Planning, Building and Code Enforcement within **60 days** from the date of issuance of permit. *Failure to do so will result in this permit automatically expiring regardless of any other expiration date contained in this permit.*